

Amendment and Response

Applicant: Kelly L. Morrison et al.

Serial No.: 10/686,385

Filed: October 14, 2003

Docket No.: C270.175.101

Title: SYSTEM AND METHOD FOR REMOTE PROCESSING OF PHARMACY ORDERS

REMARKS

The following remarks are made in response to the Non-Final Office Action mailed June 23, 2010, in which claims 1-23 were rejected. With this Response, claims 1, 7 and 14 have been amended and claim 8 has been canceled. After entry of this Response, claims 1-7 and 9-23 remain pending in the application and are presented for reconsideration and allowance.

Claim Rejections under 35 U.S.C. § 103

Claims 1-4, 7-11, 14-16 and 18-20 were rejected under U.S.C. 103(a) as being unpatentable over Wallace et al., U.S. Patent No. 6,564,121 (“Wallace”) in view of Reese, U.S. Patent No. 6,711,460 (“Reese”).

In support of this rejection, the Examiner contended that:

“Wallace discloses both the order information and dispensing queues are “established” at the pharmacy controller and the dispensing queue is accessed by the remote station for dispensing, i.e., “processing.” Examiner maintains that dispensing is a part or component of prescription processing. While Applicant appears to indicate that the specific fulfillment activities differ between the remote dispensers of Wallace and the remote centers of the instant invention, Examiner notes that the activities occurring at the remote centers are defined only as “processing.” Examiner has provided newly added reference Reese to provide evidence that it is well known in the art to distribute various tasks associated with prescription processing. Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

As an initial step in responding to this rejection, it is noted that each of the independent claims has been amended to specify that there are at least two remote processing centers and that an order is transferred from the first remote processing center to the second remote processing center if the order is not completed within a selected period of time. This limitation is similar to the limitation previously found in claim 8.

In support of the rejection of claim 8, the Examiner referenced column 10, lines 26-39 in Wallace. While this passage discusses the inability to fill a prescription, it is distinct from the claimed methods/structures.

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The claims in the present application indicate that the transfer is done if the processing is not completed. Each of the claims indicates that the processing involves reviewing and authorizing. As such, other than reviewing and authorizing, the system is able to complete the order.

In contrast, Wallace indicates that the transfer is done if the pharmaceutical is not stocked. In such a situation, the prescription is transferred to another pharmacy that has the pharmaceutical in stock and thereafter the prescription can be filled, reviewed and authorized.

The claimed invention and the Wallace invention are distinct in the preceding ways because they are intended to address different issues. The claimed invention utilizes the transfer to the second remote processing center so that the prescription can be completed within a specified time frame and thereby enables the patient to receive the completed prescription within the specified period of time even though the pharmacy has received an influx of prescriptions that the first remote processing center could not complete within the specified period of time.

In contrast, the Wallace invention is directed to increasing the efficiency at which the pharmacist is used. Wallace does not indicate that the transfer should be made even if the pharmacy is able to complete the prescription as a means to complete the prescription more quickly.

Because of the preceding differences, it would not have been obvious to a person of skill in the art to modify the Wallace process to include the steps/elements set forth in the claims of the present application.

In view of the preceding comments, it is submitted that independent claims 1, 7 and 14 are not obvious when viewed in light of the cited references. Claims 2-4, 8-11, 15-16 and 18-20 depend from one of the preceding independent claims and, as such, are also not obvious when viewed in light of the cited references. Reconsideration and withdrawal of this rejection are respectfully requested.

Claims 5-6, 12-13 and 17 were rejected under 35 U.S.C. 103(a) as being unpatentable over Wallace in view of Reese, and further in view of Gingrich et al., U.S. Patent Publication No. 2004/0006490 ("Gingrich").

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The Examiner acknowledged that Wallace fails to disclose that the procedures are queue/facility specific and/or based on contractual rules or agreements involving the specific facility. The Examiner cited Gingrich for disclosing providing procedural checks as dictated by contractual obligations or guidelines. The Examiner then contended that it would have been obvious to combine Gingrich with the other cited references to produce the claimed invention.

Claims 5-6, 12-13 and 17 depend from either independent claim 1, 7 or 14. Gingrich does not overcome the deficiencies in Wallace and Reese that are discussed above with respect to the rejection of independent claims 1, 7 or 14. Therefore, claims 5-6, 12-13 and 17 are not obvious when viewed in light of the cited combination of references. Reconsideration and withdrawal of this rejection are respectfully requested.

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CONCLUSION

In view of the above, Applicant respectfully submits that pending claims 1-7 and 9-23 are in form for allowance and are not taught or suggested by the cited references. Therefore, reconsideration and withdrawal of the rejections and allowance of claims 1-7 and 9-23 are respectfully requested.

No fees are required under 37 C.F.R. 1.16(h)(i). However, if such fees are required, the Patent Office is hereby authorized to charge Deposit Account No. 50-0471.

Please consider this a Petition for Extension of Time for a sufficient number of months to enter these papers, if appropriate. At any time during the pendency of this application, please charge any additional fees or credit overpayment to Deposit Account No. 500471.

The Examiner is invited to contact the Applicant's representative at the below-listed telephone numbers to facilitate prosecution of this application.

Any inquiry regarding this Amendment and Response should be directed to Michael A. Bondi at Telephone No. (612) 767-2512, Facsimile No. (612) 573-2005. In addition, all correspondence should continue to be directed to the following address:

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Respectfully submitted,
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By their attorneys,

Date: August 10, 2010
MAB:sy

/Michael A. Bondi/
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